

REMARKS

Applicants respectfully request favorable reconsideration of this application for the reasons set forth below.

The Office Action objects to Claim 22 for failing to further limit the subject matter of independent Claim 16. However, Claim 22 recites that the first and second opposing portions are slidably interconnected by rails. Claim 16 recites that the first and second opposing portions are slidably interconnected but does not explicitly recite “by rails.” Accordingly, Claim 22 further limits the subject matter of Claim 16 and thus is in proper dependent form.

Turning to the merits, Claims 1-6, 8-12, 16-20, and 22-24 stand newly rejected under 35 U.S.C. § 102(e) as being anticipated by Burbank (USP 6,595,943).

Applicants note that the benefit claim to U.S. Application No. 09/451,238 (the ‘238 application) is common to both the Burbank reference and the present application. As such, only the continuation-in-part benefit claim to U.S. Application no. 08/800,881 (the ‘881 application) can be relied upon to qualify the Burbank reference as prior art under 35 U.S.C. § 102(e) with respect to the present application. According to MPEP § 2136.03 (IV), a U.S. patent that is a continuation-in-part of an earlier-filed U.S. application is entitled to the earlier filing date only if the subject matter relied upon in the rejection is disclosed in the earlier-filed application. However, the Office Action fails to set forth where the earlier-filed ‘881 application provides support for the subject matter relied upon in the rejection based on the Burbank reference. Moreover, it should be readily apparent that the ‘881 application fails to disclose at least the claimed first and second opposing portions in combination with the features recited in independent Claims 1, 16, and 23. Accordingly, the Burbank reference can only be entitled to the filing date

of the '238 application for prior art purposes with respect to the present application and thus does not qualify as prior art under § 102(e).

For at least the reasons set forth above, Claims 1-6, 8-12, 16-20, and 22-24 are in condition for allowance and an early Notice of Allowance is respectfully requested.

Should the Examiner believe that any further action is necessary to place this application in better form for allowance, the Examiner is invited to contact Applicants' representative at the telephone number listed below.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (T4342-14198US18) any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been separately requested, such extension is hereby requested.

Respectfully submitted,

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